Supreme Court, U.S.
FILED

No. 04-1313 FEB 24 2005

In The Supreme Court of the United States

SHELBY J. SCOTT,

Petitioner,

v.

DEPARTMENT OF THE ARMY,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

PETITION FOR WRIT OF CERTIORARI WITH APPENDIX

Shelby J. Scott
14877 Mooresville Road
Athens, Alabama 35613
(256) 230-6215

Petitioner Pro Se

THE LEX GROUP^{DC} ♦ 1750 K Street, NW ♦ Suite 475 ♦ Washington, DC 20006
(202) 955-0001 ♦ (800) 815-3791 ♦ Fax: (202) 955-0022 ♦ www.thelexgroupdc.com

QUESTIONS PRESENTED

1. Since the Petitioner falls under the "Whistleblowers Protection Act of 1989" (WBPA), Did the Petitioner receive the protections afforded by the GovernmentAgencies that were supposed to protect her?

2. Since the MSPB Judge stated in his Decision (Appendix C) that the Petitioner's allegations fall under the WBPA, should the MSPB Judge have denied the Petitioner's case?

3. Should the MSPB Judge and the US Court of Appeals for the Federal Circuit for the Federal Circuit have considered all of the Prohibited Personnel Actions against the Petitioner?

4. Should the MSPB Judge have considered the Motion To Amend the Record and all of the other Motions/Additions for the Record?

5. Since the oral arguments by the Justice Department attorney were false or inaccurate. Should the US Federal Court of Appeals for the Federal Circuit have denied the Petition for a Rehearing? (Appendix D)

6. Since Judge Rader stated the Petitioner had a very compelling case, should he have given the Petitioner a favorable ruling instead of upholding the MSPB decision?

7. Since the Petitioner is a "Whistleblower" and falls under the "Whistleblower Protection Act of 1989", why did the judicial system not protect the Petitioner?

8. Based on the Congressional Investigation (Jan 05) findings regarding the Office of Special Counsel and the Merit System Protection Board, and the mishandling of the Petitioner's complaints, why are these two government agencies allow to operate?

9. When a manager tells the Petitioner the only way she can be promoted is if a Judge orders a promotion, is that a reprisal action?

LIST OF PARTIES

Office of Special Counsel - Washington, DC

U.S. Merit System Protection Board - Atlanta, GA

US Federal Court of Appeals for the Federal Circuit, Washington, DC

Department of the Army, Washington, DC

TABLE OF CONTENTS

Page

QUESTIONS PRESENTED i

LIST OF PARTIES iii

TABLE OF CONTENTS iv

TABLE OF AUTHORITIES v

OPINIONS BELOW 1

JURISDICTION 1

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED 1

STATEMENT OF CASE 3

REASONS FOR GRANTING THE PETITION 6

CONCLUSION 8

APPENDIX

TABLE OF AUTHORITIES

Page(s)

Whistleblowers Protection Act of 1989,
5 U.S.C. § 2302(b)(8)..... passim

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

OPINIONS BELOW

For cases from federal courts:

The judgment of the United States Court of Appeals for the Federal Circuit appears at Appendix A to the petition and is unpublished.

JURISDICTION

For cases from federal courts:

The date on which the United States Court of Appeals for the Federal Circuit decided my case was December 13, 2004.

A timely petition for rehearing was denied by the United States Court of Appeals for the Federal Circuit on the following date: February 8, 2005, and a copy of the order denying rehearing appears at Appendix D.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

"Whistleblowers Protection Act of 1989", 5 U.S.C. 2302(b)(8).

Petitioner is a Whistleblower. Petitioner prevailed in a MSPB case in September 1991 against the US Army Command where Petitioner works, formally known as

US Army Missile Command, and now the US Army Aviation & Missile Command-Redstone Arsenal, AL.

Petitioner blew the whistle again in Feb 1999. All of Petitioner's allegations were founded in the investigation performed by the HQ Department of the Army. Judge Stuart Miller, MSPB Judge stated in his decision that my allegations fell under the "Whistleblowers Protection Act" but he denied Petitioner's case. Judge Miller erred in his denial of Petitioner's Complaint as did the US Federal Court of Appeals for the Federal Circuit when they upheld the MSPB Decision.

Petitioner's constitutional rights have been denied by the judicial system for not protecting her. Their jobs are supposed to be to abide by the constitutional laws that have been passed by our country leaders.

The Office of Special Counsel, Merit System Protection Board, and the US Federal Court of Appeals for the Federal Circuit did not do their jobs.

Judge Rader stated that Petitioner's case was a very compelling case, but he did nothing to correct the situation. He upheld the MSPB decision. UNREAL.

The judicial system and government agencies that were suppose to protect the Petitioner did nothing to protect her from the six, going on seven years now of the stress, humiliation, harassment, prohibited personnel practices that she has endured.

When you are a "Whistleblower" you are labeled and it follows you for the duration of your career. That is why the "Whistleblowers Protection Act of 1989" was passed.

Petitioner's RIGHTS under this law have been DENIED.

STATEMENT OF CASE

Petitioner blew the whistle on the US Army Aviation & Missile Command-Redstone Arsenal, AL on two separate occasions. Petitioner prevailed in a MSPB case in Sept. 1991. Petitioner transferred to Kwajalein Island then to the US Army Material Command, Alexandria, VA. Petitioner's daughter is handicapped and cannot travel with her. Petitioner is required to keep her daughter up in Alabama. At the age of 12 years she was kidnaped, raped, and sodomized. These criminals received 120 years each and every 3 years they come up for parole. Petitioner must travel to Montgomery, Alabama and protest against them being released. Petitioner put in for a Compassionate Reassignment to come back to Redstone Arsenal, Alabama, it was approved, but AMCOM Upper Level Managers would not take Petitioner back. Petitioner had to take a job-swap with another employee at the US Aviation Command, St. Louis, Missouri. She returned to Redstone Arsenal on the BRAC Base Closure (ATCOM was closed and moved to Redstone Arsenal, AL). The job Petitioner was selected for at Redstone was given to an AMCOM "Good Old Boy" and Petitioner was put on a "00" slot.

Petitioner had to file a union grievance to be put on a permanent job.

The Reprisals/Prohibited Personnel Practices and Harassment have been unreal:

Passed over for Promotion 200 times

Deplorable Working Conditions (Ref JA 30-38)

Hostile Working Conditions

Performance Appraisal Downgraded

Moved to 7 different work directorates in one year

Put on AMCOM Surplus List

Petitioner was told by Watson Chaney (AMCOM GM-15 MGR) that the only way Petitioner would ever get promoted was if a JUDGE ordered AMCOM to do it.

ALL OF THE ABOVE IS FILED IN PETITIONER'S BRIEF (Date: June 14, 2004)

EVIDENCE FO ALL THE ABOVE IS BACKED UP IN THE JOINT APPENDIXES (Date: June 14, 2004) AND IN THE PETITION FOR REHEARING TO THE US FEDERAL COURT OF APPEALS FOR THE FEDERAL CIRCUIT (Appendix E).

Petitioner asks the Supreme Court to please give her the opportunity to present her case, and let you know about the damage that has been done to her health wise.

She is 66 years old. Her career has been ruined and her retirement heavily damaged.

In addition to EEOC, OSC & MSPB, Petitioner wrote letters to the following but got no response from Senator Collins and Ms. Marshall.

Congressman Bud Cramer - June 16, 2003/January 31, 2005

Senator Jeff Sessions - December 23, 2003

Ms. Suzanne T. Marshall - no response

Senator Susan M. Collins - no response

MSPB Judge Stuart Miller stated in his initial decision that Petitioner's allegations fell under the Whistleblowers Protection Act but then denied her case.

There was no logic in his decision. Judge Miller also referred to AMCOM managers as being not credible but upheld them in his decision and the US Court of Appeals for the Federal Circuit did the same. There is definitely a flaw in our judicial system.

Petitioner requests she be promoted to a GS/GM-14 Step 10, retroactive back five years; that Petitioner be financially compensated for the damages to her career, her retirement, her retirement plan, all previously incurred attorney fees, and damages for the pain and suffering due to the stress she has had to endure these many years.

REASONS FOR GRANTING THE PETITION

1. The US Federal Court of Appeals for the Federal Circuit erred in its decision to uphold the MSPB's decision in the case of the Petitioner and denied the Petitioner's "Petition for Rehearing."

2. The oral argument presented by the Justice Department was false and inaccurate. This was addressed in the Petition for Rehearing (Ref Appendix D) the Denial of a Rehearing violated the Petitioner's Constitutional Rights.

3. Significant new evidence was presented d to the MSPB Judge and he never acknowledged this evidence.

4. The MSPB Judge nor the US Federal Court of Appeals for the Federal Circuit considered all the reprisal and prohibited personnel actions and harassment the Petitioner has endured for six years. Both court systems erred in their decisions on this case.

5. Based on the Congressional Investigations into the OSC and MSPB arbitrarily dismissing the OSC and MSPB cases, the US Supreme Court should take actions against these government agencies and hold them accountable. This affects every "Whistleblower." The Petitioner filed two complaints with OSS and MSPB both. Both were closed - denied. (Ref. Appendix D)

The Office of Special Counsel, Merit System Protection Board, and the US Federal Court of Appeals for the Federal Circuit did not do their jobs. The Merit System Protection Judge Stuart Miller did not in any way address all the issues in Petitioner's case. When Petitioner's attorney and Petitioner would send him information, as well as a "Motion to Expand the Record" he never even acknowledged them. No response from him on anything. Petitioner make no bones about it, Judge Stuart Miller should be fired. He should be charged with misconduct and held accountable for not doing his job. He should have given Petitioner her due rights under the Whistleblowers Protection Act. Judge Rader stated that Petitioner's case was a very compelling case, but he did nothing to correct the situation, and then upheld the MSPB decision. The Judicial System and Government Agencies that were suppose to protect Petitioner did nothing to protect Petitioner from the stress, humiliation, harassment, prohibited personnel practices and damage to her health that Petitioner has endured.

When you are a "Whistleblower" you are labeled and it follows you for the duration of your career. That is why the "Whistleblowers Protection Act of 1989 was passed, Petitioner's rights to be protected under this law have been denied.

There is not enough space to reference all the evidence that has been presented in Petitioner's case. Please review the original BRIEF, JOINT APPENDIXES, PETITION FOR REHEARING to get the entire picture of what the US Army Aviation & Missile Command have done to Petitioner and to see what was presented to OSC, MSPB and the US Federal Court of Appeals for the

Federal Circuit. None of the government agencies that were suppose to protect the Petitioner, did anything to give the Petitioner the protection they were suppose to. They did NOTHING.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Shelby J. Scott

Shelby J. Scott
Pro Se
14877 Mooresville Road
Athens, Alabama 35613
(256) 230-6215 (Home)
(256) 313-0166 (Work)